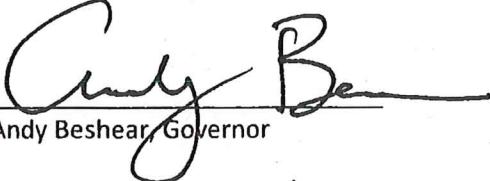


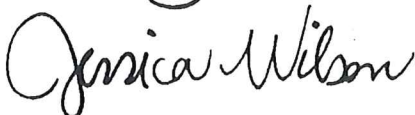
STATEMENT OF EMERGENCY

201 KAR 20:260E

FILED WITH LRC TIME: <u>10:44 AM</u>
JAN 11 2022
Emily B. Caudill REGULATIONS COMPILER

This emergency amendment to an existing administrative regulation is being promulgated to comply with an executive order issued under KRS Chapter 39A. On December 9, 2021, Governor Andy Beshear signed Executive Order 2021-913 to address the current nursing shortage in the Commonwealth of Kentucky. This administrative regulation is being filed on an emergency basis under KRS 13A.180, and pursuant to Executive Order 2021-913, KRS 39A.180, and Section 1.(13) of 2020 RS SB 150, 2020 Ky. Acts ch. 73, to ensure that programs of nursing may increase enrollments beyond their baselines to introduce more nurses into Kentucky's healthcare system. This emergency amendment differs from the existing administrative regulation. Under the existing administrative regulation, a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing. An ordinary amendment to the existing administrative regulation will not follow.


Andy Beshear, Governor



Jessica Wilson, President
Kentucky Board of Nursing

1 GENERAL GOVERNMENT CABINET

2 Board of Nursing

3 (Emergency Amendment)

4 201 KAR 20:260E. Organization and administration standards for prelicensure registered nurse
5 or practical nurse programs of nursing.

6 RELATES TO: KRS 314.041(1), 314.111(1), 314.131

7 STATUTORY AUTHORITY: KRS 13A.190, KRS 39A.180, KRS 314.111(1), KRS 314.131(1),
8 (2); 2020 RS SB 150, 2020 Ky. Acts ch. 73

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS KRS 314.111(1) and 314.131(2) require
10 the board to approve schools of nursing and courses preparing persons for licensure and to
11 monitor standards for nurse competency under KRS Chapter 314. KRS 314.131(1) authorizes the
12 board to promulgate administrative regulations to implement KRS Chapter 314. This
13 administrative regulation establishes the organization and administration standards for
14 prelicensure registered nurse or practical nurse programs. This Emergency Amendment is
15 promulgated pursuant to Executive Order 2021-913, KRS 39A.180, and Section 1.(13) of 2020 RS
16 SB 150, 2020 Ky. Acts ch. 73.

17 Section 1. Definitions.

1 (1) "Campus" means a division of a college or university that has its own grounds,
2 buildings, and students, but is administratively joined to the rest of the college or university.

3 (2) "Clerical assistance" means the provision of administrative, secretarial, or clerical
4 help by qualified individuals that assists the program of nursing.

5 (3) "Clinical instructor" means a nurse who is employed by a program of nursing solely
6 to provide students with traditional clinical or simulated experiences.

7 (4) "Nurse faculty" means a nurse who is employed by a program of nursing, either full-
8 time, part-time, or adjunct, to provide didactic instruction, and may also provide clinical
9 instruction or simulated experiences.

10 (5) "Preceptor" means a nurse with demonstrated competence in a specific clinical area
11 who serves as a role model and mentor to assist in the development and validation of the
12 competencies of a student.

13 (6) "Program of nursing" means the educational unit that prepares a person for
14 licensure as a registered or licensed practical nurse.

15 (7) "Nursing track" means a path within a program of nursing that leads to licensure as a
16 nurse.

17 Section 2. Organization or Administration Standards for Prelicensure Registered Nurse
18 and Practical Nurse Programs. To be eligible for approval by the board, a program shall have:

19 (1) A governing institution.

1 (a) The governing institution that establishes and conducts the program of nursing shall
2 hold accreditation as a postsecondary institution, college, or university by an accrediting body
3 recognized by the U.S. Department of Education.

4 (b) The governing institution shall assume full legal responsibility for the overall conduct
5 of the program of nursing. The program of nursing shall have comparable status with the other
6 programs in the governing institution and the relationship shall be clearly delineated.

7 (c) The governing institution shall:

8 1. Designate a program administrator for the prelicensure program of nursing who is
9 qualified pursuant to 201 KAR 20:310 and is responsible for fulfilling the duties specified in
10 subsection (3) of this section on a twelve (12) month basis;

11 2. Assure that at least fifty (50) percent of the program administrator's time shall be
12 dedicated to complete the duties specified in this administrative regulation at each program of
13 nursing. A governing institution that is unable to comply with this standard may request an
14 exemption from the board in writing.

15 a. The request shall state the reasons for noncompliance and the efforts the institution
16 has taken and will take to comply with the standard.

17 b. If the exemption is granted, it shall be for twelve (12) months from the date of board
18 approval. During this time, the governing institution shall not open a new program of nursing
19 and shall not increase enrollment at an existing program of nursing;

1 3. Provide evidence that the fiscal, human, physical, clinical, and technical learning
2 resources shall be adequate to support program mission, processes, security, and outcomes;

3 4. Provide student support programs, services, and activities consistent with the mission
4 of the governing institution that promote student learning and enhance the development of
5 the student;

6 5. Make financial resources available to the program of nursing consistent with
7 equivalent programs at the governing institution;

8 6. Employ nurse faculty pursuant to 201 KAR 20:310 in sufficient number and expertise
9 to accomplish program outcomes and quality improvement;

10 7. Provide written policies for faculty related to qualifications for the position, rights and
11 responsibilities of the position, criteria for evaluation of performance, workload, and retention;

12 8. Involve the nurse faculty in determining academic policies and practices for the
13 program of nursing; and

14 9. Provide for the security, confidentiality, and integrity of faculty employment and
15 student records.

16 (d) The governing institution shall provide an organizational chart that describes the
17 organization of the program of nursing and its relationship to the governing institution;

18 (2) Administrative policies.

19 (a) There shall be written administrative policies for the program of nursing that shall
20 be:

1 1. In accord with those of the governing institution; and

2 2. Available to the board for review.

3 (b) The board shall be notified in writing of a change, vacancy, or pending vacancy, in
4 the position of the program administrator within thirty (30) days of the program of nursing's
5 awareness of the change, vacancy, or pending vacancy.

6 1. The head of the governing institution shall submit to the board in writing the name of
7 the registered nurse who has been designated to assume the administrative duties for the
8 program, the date the person will assume the duties of program administrator, and a copy of
9 his or her curriculum vitae.

10 2. a. If there is to be a lapse between the date of the change or vacancy and the date the
11 newly-appointed program administrator assumes duties, the head of the governing institution
12 shall submit a plan of transition to ensure the continuity of the program.

13 b. Progress reports shall be submitted if requested by the board.

14 3. a. The length of the appointment of an interim program administrator shall not
15 exceed six (6) months.

16 b. Additional six (6) month periods may be granted upon request to the board based on
17 a documented inability to fill the position.

18 (c) A written plan for the orientation of the nurse faculty to the governing institution
19 and to the program shall be implemented.

1 (d) There shall be a written contract between the governing institution and each agency
2 or institution that provides a learning experience for a student. A contract shall not be required
3 for an observational experience.

4 1. The contract shall clearly identify the responsibilities and privileges of both parties.

5 2. The contract shall bear the signature of the administrative authorities of each
6 organization.

7 3. The contract shall vest in the nurse faculty control of the student learning experiences
8 subject to policies of the contractual parties.

9 4. The contract shall be current and may include an annual automatic renewal clause.

10 5. The contract shall contain a termination clause by either party;

11 (3) A program or an interim program administrator who shall have authority and
12 responsibility in the following areas:

13 (a) Development and maintenance of collaborative relationships with the administration
14 of the institution, other divisions or departments within the institution, related facilities, and
15 the community;

16 (b) Participation in the preparation and management of the program of nursing budget;

17 (c) Screening and recommendation of candidates for nurse faculty appointment,
18 retention, and promotion;

(d) Submission of the qualifications of all nurse faculty and clinical instructors as set forth in 201 KAR 20:310, Section 4;

(e) To provide leadership within the nurse faculty for the development, implementation, and evaluation of the program of nursing and program outcomes;

(f) To facilitate the implementation of written program policies for the following:

1. Student admission;

2. Student readmission and advance standing;

3. Student progression, which shall include:

a. The level of achievement a student shall maintain in order to remain in the program or to progress from one (1) level to another; and

b. Requirements for satisfactory completion of each course in the nursing curriculum.

4. Requirements for completion of the program;

5. Delineation of responsibility for student safety in health related incidents both on campus and at any clinical activity required by the program of nursing;

6. Availability of student guidance and counseling services;

7. The process for the filing of grievances and appeals by students;

8. Periodic evaluation by the nurse faculty of each nursing student's progress in each course and in the program;

9. Student conduct that incorporates the standards of safe nursing care; and

1 10. Publication and access to current academic calendars and class schedules;

2 (g) To facilitate the continuing academic and professional development for the nurse
3 faculty;

4 (h) 1. To initiate and coordinate the development of contracts with clinical facilities, the
5 number and variety of which shall be adequate to meet curricular outcomes;

6 2. To develop written criteria for the selection and evaluation of clinical facilities and
7 ensure that the criteria shall be utilized by the program of nursing; and

8 3. To assure that clinical facilities show evidence of approval by the appropriate
9 accreditation, evaluation, or licensure bodies, if applicable;

10 (i) The establishment of student-nurse faculty ratio in the clinical practice experience.

11 1. The maximum ratio of nurse faculty to students in the clinical area of patients-clients
12 shall be defensible in light of safety, learning objectives, student level, and patient acuity.

13 2. The student-nurse faculty ratio shall not exceed ten (10) to one (1) in the clinical
14 practice experience, including observational or other supervised learning experiences.

15 3. This ratio shall not apply to on campus skill lab experiences;

16 (j) The submission of the Certified List of Kentucky Program of Nursing Graduates, as
17 incorporated by reference in 201 KAR 20:070, upon student completion of all requirements for
18 a degree, diploma, or certificate, regardless of the state in which the graduate intends to seek
19 licensure;

1 (k) The development and maintenance of an environment conducive to the teaching
2 and learning process;

3 (l) To facilitate the development of long-range goals and objectives for the nursing
4 program;

5 (m) To ensure that equipment, furnishings, and supplies be current and replaced in a
6 timely manner;

7 (n) To ensure that the nurse faculty has sufficient time to accomplish those activities
8 related to the teaching-learning process and program outcomes;

9 (o) To coordinate an orientation to the roles and responsibilities of full-time, part-time,
10 adjunct nurse faculty, and clinical instructors to the program of nursing and, as appropriate, to
11 clinical facilities so that the mission, goals, and expected outcomes of the program shall be
12 achieved;

13 (p) To facilitate regular communication with the full and part time nurse faculty and
14 clinical instructors in the planning, implementation, and evaluation of the program of nursing;

15 (q) To ensure that recruitment materials provide accurate and complete information to
16 prospective students about the program including the:

17 1. Admission criteria;

18 2. Program description, including course sequence, prerequisites, and corequisites;

19 3. Length of the program;

1 4. Current cost of the program, including tuition and all associated fees and expenses;
2 and

3 5. Transferability of credits to other public and private institutions in Kentucky;

4 (r) To conduct or participate in the written evaluation of each nurse faculty member,
5 clinical instructor, and program of nursing support staff according to published criteria,
6 regardless of contractual or tenured status;

7 (s) To ensure the adherence to the written criteria for the selection and evaluation of
8 clinical facilities utilized by the program of nursing;

9 (t) To maintain current knowledge of requirements pertaining to the program of nursing
10 and licensure as established in 201 KAR Chapter 20;

11 (u) To attend the next available board orientation for program administrators but not
12 later than within six (6) months of appointment;

13 (v) To develop a structure to allow nurse faculty to assist in the governance of the
14 program;

15 (w) To ensure that the curriculum is developed and implemented pursuant to 201 KAR
16 20:320; and

17 (x) To ensure that the program of nursing posts a link provided by the board to the
18 information published by the board pursuant to 201 KAR 20:360, Section 5(4) on its Web site
19 and refers all individuals seeking information about the program to this link.

1 (4) A system of official records and reports essential to the operation of the program of
2 nursing maintained according to institutional policy. Provisions shall be made for the security
3 and protection of records against loss and unauthorized distribution or use. The system shall
4 include records of:

5 (a) Currently enrolled students to include admission materials, courses taken, grades
6 received, scores for standardized tests, and clinical performance records;

7 (b) Minutes of faculty and committee meetings, which shall be maintained a minimum
8 of five (5) years, irrespective of institutional policy;

9 (c) Faculty records including:

10 1. Validation of current licensure or privilege to practice as a Registered Nurse in
11 Kentucky;

12 2. Evidence of fulfilling the faculty orientation requirements established in 201 KAR
13 20:310, Section 3(5); and

14 3. Performance evaluation for faculty employed more than one (1) year;

15 (d) Systematic plan of evaluation;

16 (e) Graduates of the program of nursing; and

17 (f) Administrative records and reports from accrediting agencies; and

18 (5) Official publications of the governing institution including:

19 (a) A description of the governing institution and program of nursing;

1 (b) Policies on admission, progression, dismissal, graduation, and student grievance
2 procedures; and

3 (c) A description of student services;

4 (6) Clerical assistance and support staff.

5 (a) There shall be clerical assistance and support staff sufficient to meet the needs of the
6 nursing program for the administrator, faculty, and students.

7 (b) Each campus shall have at least one (1) dedicated clerical staff.

8 (c) If the program of nursing does not have at least one (1) dedicated clerical staff, the
9 program administrator shall provide written justification to the board. The board shall evaluate
10 the justification to determine whether the program may operate effectively without dedicated
11 staff sufficient to meet the needs of the nursing program. If the board rejects the justification,
12 the program of nursing shall comply with the board's determination on clerical staffing.

13 (7) Nurse faculty, full-time, and part-time, with the authority and responsibility to:

14 (a) Plan, implement, evaluate, and update the program;

15 (b) Assist in the design, implementation, evaluation, and updating of the curriculum
16 using a written plan;

17 (c) Participate in the development, implementation, evaluation, and updating of policies
18 for student admission, progression, and graduation in keeping with the policies of the
19 governing institution;

- 1 (d) Participate in academic advisement and guidance of students;
- 2 (e) Provide theoretical instruction and clinical learning experiences;
- 3 (f) Evaluate student achievement of curricular outcomes related to nursing knowledge
4 and practice;
- 5 (g) Develop and implement student evaluation methods and tools for each course that
6 measure the progression of the student's cognitive, affective, and psychomotor achievement of
7 course and clinical outcomes based on published rubrics and sound rationale;
- 8 (h) Participate in academic and professional level activities that maintain the faculty
9 member's competency and professional expertise in the area of teaching responsibility;
- 10 (i) Communicate clinical outcomes to the student, clinical instructor, preceptor, and
11 staff at the clinical site;
- 12 (j) Assume responsibility for utilizing the criteria in the selection of clinical sites and in
13 the evaluation of clinical experiences on a regular basis;
- 14 (k) Evaluate the student's experience, achievement, and progress in relation to course
15 and clinical outcomes, with input from the clinical instructor and preceptor, if applicable; and
- 16 (l) Delegate to a nurse employed by a clinical agency the supervision of a student
17 performing a procedure; and
- 18 (8) Clinical instructors with the authority and responsibility to:

1 (a) Design, at the direction of the nurse faculty member, the student's clinical
2 experience to achieve the stated outcomes of the nursing course in which the student is
3 enrolled;

4 (b) Clarify with the nurse faculty member:

5 1. The role of the preceptor, if applicable;

6 2. The course responsibilities;

7 3. The course or clinical outcomes;

8 4. A course evaluation tool; and

9 5. Situations in which collaboration and consultation shall be needed;

10 (c) Participate in the evaluation of the student's performance by providing information
11 to the nurse faculty member and the student regarding the student's achievement of
12 established outcomes; and

13 (d) Delegate to a nurse employed by a clinical agency the supervision of a student
14 performing a procedure.

15 Section 3. Notification of Change in Enrollment.

16 (1) All programs of nursing shall have on record with the board the maximum number of
17 new students that the program is able to enroll in one (1) academic year. This number shall be
18 referred to as the program's enrollment baseline.

1 (2) (a) A program of nursing that desires to increase its enrollment beyond its
2 enrollment baseline shall submit a request to the board. ~~[The request shall be sent in writing at~~
3 ~~least two (2) months prior to the date for which the requested increase is being sought.~~
4 ~~Exceptions to this time frame shall only be made for exigent circumstances.]~~ The request is only
5 necessary if the increase is greater than the following:

- 6 1. If the enrollment baseline is fifty (50) or less, an increase of ten (10) students;
- 7 2. If the enrollment baseline is fifty-one (51)-100, an increase of twenty (20) students; or
- 8 3. If the enrollment baseline is greater than 100, an increase of twenty-five (25)
9 students.

10 (b) The request shall demonstrate that the program has sufficient resources to fulfill the
11 standards established by this administrative regulation for the anticipated increase in
12 enrollment. These sufficient resources shall include adequate:

- 13 1. Number of qualified faculty;
- 14 2. Classroom space;
- 15 3. Clinical sites or simulation resources, pursuant to 201 KAR 20:320 Section 3;
- 16 4. Clerical support; and
- 17 5. Financial support.

18 (c) The program shall investigate the projected impact of the increase on the operation
19 of programs of nursing within a fifty (50) mile radius and shall submit a report to the board.

1 (d) The program of nursing shall submit evidence that it has met the benchmarks set out
2 in 201 KAR 20:360, Section 5(2)(f).

3 (3) (a) The request shall be reviewed by board staff. Board staff shall ~~may~~ approve the
4 request within thirty (30) days of the receipt of the request, if ~~[it is determined that]~~ the criteria
5 listed in subsection (2) of this section have been met.

6 (b) If ~~[board staff determines that]~~ the criteria listed in subsection (2) of this section
7 have not objectively been met, the request shall be held in abeyance until the program of
8 nursing demonstrates that the criteria listed in subsection (2) of this section has been met, and
9 the timeframe of thirty (30) days in subsection (3)(a) of this section shall be tolled until the
10 program of nursing demonstrates that the criteria listed in subsection (2) of this section has
11 been met ~~[referred to the board for further consideration and a decision].~~

12 Section 4. Multiple Campuses. (1)~~[(a)]~~ A governing institution may have programs of
13 nursing located on different campuses.

14 ~~[(b) Each campus shall be considered a separate program of nursing.]~~

15 (2) (a) The governing institution shall designate a main campus headed by a program
16 administrator.

17 (b) The program administrator shall have final responsibility and authority for the non-
18 main campuses, but shall designate an assistant program administrator to assist in the
19 governance of each non-main location. The assistant program administrator shall meet the
20 qualification for a nurse faculty as set out in 201 KAR 20:310. The program administrator may

1 designate the amount of release time for the assistant program administrator for
2 administrative duties, but it shall not be less than twenty-five (25) percent.

3 (3) For purposes of calculating benchmarks set out in 201 KAR 20:360, Section 5(2)(f),
4 each campus shall individually report its data annually to the board. The board shall evaluate
5 the benchmarks for each campus individually.

6 Section 5. Suspension of Enrollment. (1) A governing institution that decides to suspend
7 enrollment in the program of nursing shall notify the board in writing within thirty (30) days
8 following the decision. No longer enrolling in one (1) of several nursing tracks within a program
9 of nursing shall not constitute suspension of enrollment for purposes of this administrative
10 regulation.

11 (2) The notification shall identify the reasons leading to the decision and how long it is
12 anticipated that the suspension will be in effect.

13 (3) The governing institution shall report to the board annually on the status of the
14 suspension.

15 (4) (a) If the decision to reinstate enrollment is made within three (3) years of the
16 decision to suspend enrollment, the governing institution shall notify the board in writing of the
17 decision within thirty (30) days.

18 (b) The notification shall state the date classes will begin. It shall also list the faculty and
19 clinical sites that will be utilized.

1 (5) If the decision to reinstate enrollment is made three (3) years or more from the
2 decision to suspend enrollment, the governing institution shall comply with the procedures
3 outlined in 201 KAR 20:280.

4 Section 6. Change in Accreditation.

5 (1) A governing institution that seeks to change the U.S. Department of Education
6 recognized accrediting body from which it receives accreditation shall notify the board when it
7 has filed an application for accreditation.

8 (2) A governing institution with an application in process before the accrediting body
9 shall be considered in compliance with Section 2(1)(a) of this administrative regulation.

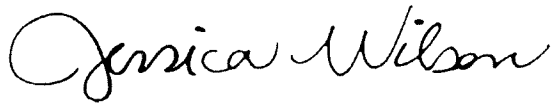
10 (3) (a) A governing institution whose application has been denied by its accrediting body shall
11 not be considered to be in compliance with Section 2(1)(a) of this administrative regulation.

12 (b) The board shall begin the process established in 201 KAR 20:360, Section 7 for
13 withdrawal of approval.

Amended Administrative Regulation

201 KAR 20:260E. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

Adopted: January 11, 2022.

A handwritten signature in black ink that reads "Jessica Wilson". The signature is written in a cursive, flowing style.

Jessica Wilson, President
Kentucky Board of Nursing

January 11, 2022
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on Monday, February 21, 2022, at 10:00 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by Monday, February 14, 2022, five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m. EDT) Monday, February 28, 2022.

Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON:

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Cell: (502) 338-2851
Email: Jeffrey.Prather@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 201 KAR 20:260E

Contact Person: Jeffrey R. Prather, (Jeffrey.Prather@ky.gov), (502) 338-2851

(1) Provide a brief summary of :

- (a) What this administrative regulation does: Under the existing administrative regulation, a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing.
- (b) The necessity of this administrative regulation: This emergency amendment is being promulgated to comply with Executive Order 2021-913.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: By establishing criteria for the approval of enrollment increases.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets criteria for the approval of enrollment increases.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change the existing administrative regulation: The existing administrative regulation mandates that a program of nursing must submit a request to increase enrollment two months prior to the increase, except in exigent circumstances; Board staff has discretion to deny an increase; and each new campus was considered a separate program of nursing. This emergency amendment requires the Kentucky Board of Nursing to approve requests from programs of nursing to increase enrollment within 30 days if the program of nursing has demonstrated that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing.
- (b) The necessity of the amendment to the administrative regulation: Governor Andy Beshear signed Executive Order 2021-913. This administrative regulation is being filed on an emergency basis to comply with the Executive Order.
- (c) How the amendment conforms to the content of the authorizing statutes: By establishing criteria for the approval of enrollment increases.
- (d) How the amendment to the administrative regulation will assist in the effective administration of the statutes: The amendment brings the regulation into compliance with Executive Order 2021-913, pursuant to KRS 13A.180.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Prelicensure registered nurse or practical nurse programs of nursing. There are currently approximately 90 programs of nursing.

(4) Provide an analysis of how the entities referenced in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

(a) A detailed explanation of the actions the entities referenced in question (3) will be required to undertake in order to comply with this proposed administrative regulation: To increase enrollment, the program of nursing must notify the Board of Nursing and demonstrate that it has sufficient resources to support the increase, and it requires new campuses to be considered enrollment increases and not separate programs of nursing

(b) An estimate of the costs imposed on entities referenced in question (3) in order to comply with this proposed administrative regulation: There are no additional costs imposed.

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: Programs of Nursing will be able to increase enrollment more quickly.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There is no additional cost.

(6) Provide the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: It will not.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not.

(9) TIERING: Is tiering applied? Tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 201 KAR 20:260E
Contact Person: Jeffrey R. Prather
Email address: Jeffrey.Prather@ky.gov
Phone number: (502) 338-2851

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.190, KRS 39A.180, KRS 314.111, KRS 314.041, KRS 314.131.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? No additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2021-913
December 9, 2021

STATE OF EMERGENCY RELATING TO NURSING SHORTAGE

The Commonwealth and the nation are experiencing nursing shortages. In a September 1, 2021 letter to the Secretary of the Department of Health and Human Services, the American Nurses Association ("ANA") referred to "a crisis-level human resource shortage of nurses that puts our ability to care for patients in jeopardy."

Although the shortage predates the pandemic, COVID-19 has exacerbated the problem. The ANA is "deeply concerned that this severe shortage of nurses, especially in areas experiencing high number of COVID-19 cases, will have long-term repercussions for the profession, the entire health care delivery system, and ultimately on the health of the nation." Accordingly, in order "[t]o address this crisis and to ensure that we have a strong nursing workforce for the future," the ANA has urged the declaration of a "national nurse staffing crisis" along with the immediate development and implementation of short- and long-term solutions.

Like the nation at large, the Commonwealth of Kentucky is experiencing a dire nursing shortage. The Kentucky Nurses Association ("KNA") has indicated that the Commonwealth is operating 12%-20% short of the needed nursing volume. In fact, during the pandemic the Kentucky Hospital Association called on all licensed nurses, including those retired or no longer in the industry, to assist hospitals. Furthermore, at the rate of projected exodus from the nursing profession, Kentucky will need more than 16,000 additional nurses by 2024. Notably, an October 2021 survey conducted by the KNA found that in a sample of more than 800 nurses, 1 in 4 responded that it would be likely that they would leave their jobs in the next three months.

Kentucky's nursing shortage in the midst of a once-in-a-century global pandemic is nothing short of an emergency. The ANA states that "real solutions" to the crisis include



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2021-913
December 9, 2021

“[a]ddressing the persistent barriers that limit the number of qualified nursing students that can be educated each year.” Increasing enrollment in Kentucky nursing schools that meet the criteria for such increases is crucial to addressing the nursing shortage and providing quality healthcare to our citizens.

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, by virtue of authority vested in me under the Constitution of Kentucky and KRS Chapter 39A, do hereby declare that a State of Emergency exists relating to the nursing shortage in the Commonwealth and Order and Direct the following:

1. Kentucky Board of Nursing and Board staff shall approve a request for increased enrollment beyond the enrollment baseline for any prelicensure program of nursing that demonstrates that the program has sufficient resources to fulfill the standards established in 201 KAR 20:260 Section 3(2)(b). The Board of Nursing and Board staff shall approve a request under this paragraph within 30 days of receiving the request, and neither the Board nor Board staff shall have discretion in approving a request upon determining that a program of nursing has demonstrated it has sufficient resources to fulfill the standards established in 201 KAR 20:260 Section 3(2)(b).
2. The current nursing shortage in the Commonwealth during the global pandemic constitutes “exigent circumstances” within the meaning of 201 KAR 20:260 Section 3(2)(a), such that the two-month time frame for written requests to increase enrollment shall not apply to any request for increased enrollment beyond the enrollment baseline for any prelicensure program of nursing.
3. All nursing programs shall compile a list of needed faculty to reach full enrollment and provide that list to the Kentucky Board of Nursing, the Office of the Governor, and the Council on Postsecondary Education within 30 days of this Executive Order.
4. A prelicensure program of nursing with no vacancy for student applicants shall refer student applicants to a prelicensure program of nursing with vacancies for student applicants.



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2021-913
December 9, 2021

5. All prelicensure programs of nursing in the Commonwealth of Kentucky shall report their vacancies on a monthly basis to the Board of Nursing, which shall compile the list of vacancies and publish it on its website.
6. The Kentucky Board of Nursing shall recognize as having the privilege to practice in the Commonwealth any nurse who has met the criteria to practice nursing in another state pursuant to KRS 314.101(1)(a). Such a nurse shall be subject to the jurisdiction of the Board under KRS 314.099.
7. The Kentucky Board of Nursing shall develop, improve and/or promote programs that increase the number of individuals who may work in health care facilities, including, but not limited to, students enrolled in a program of nursing.
8. New campuses opened for educating nursing students by existing institutions, alone or as a joint venture, shall be considered a matter of increased enrollment, not new programs of nursing, and therefore must comply only with the requirements for increasing enrollment under the relevant regulations.
9. Pursuant to KRS 12.029, the Team Kentucky Nursing Advisory Committee is hereby created and attached to the Office of the Governor for administrative purposes.
 - A. The Committee shall submit written recommendations to the Governor for addressing the nursing shortage in Kentucky within 90 days of this Executive Order.
 - B. The Committee shall be appointed by the Governor and composed of the following 12 members that have relevant experience in education, health care and nursing:
 - i. Two (2) representatives from nursing programs of public universities within the Commonwealth of Kentucky other than the Kentucky Community and Technical College System, to be appointed by the Governor;
 - ii. Two (2) representatives from nursing programs of non-public educational institutions within the



ANDY BESHEAR
GOVERNOR

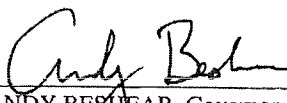
EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2021-913
December 9, 2021

Commonwealth of Kentucky, to be appointed by the Governor;

- iii. One (1) representative from nursing programs of the Kentucky Community and Technical College System, to be appointed by the Governor;
- iv. Two (2) representatives from the Kentucky Board of Nursing, to be appointed by the Governor;
- v. One (1) representative from the Kentucky Nurses Association, to be appointed by the Governor;
- vi. One (1) representative from LeadingAge Kentucky, to be appointed by the Governor;
- vii. One (1) representative from the Kentucky Rural Health Association, to be appointed by the Governor;
- viii. One (1) representative from an urban hospital system, to be appointed by the Governor; and
- ix. One (1) representative from a rural hospital system, to be appointed by the Governor.



ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State